

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DR. PAUL M. CONTI,

Plaintiff/Counter-Defendant,

Case No. 17-CV-9268 (VEC) (RWL)

– against –

JOHN DOE,

Defendant/Counter-Plaintiff.

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DECLARATION OF PETER B. SCHALK

PETER B. SCHALK, hereby declares under penalty of perjury:

1. I am a principal of the law firm of Judd Burstein, P.C. (“JBPC”), attorneys for Plaintiff/Counter-Defendant Dr. Paul M. Conti (“Plaintiff” or “Dr. Conti”) in the above-captioned action.

2. I respectfully submit this Declaration in opposition to Defendant/Counter-Plaintiff John Doe’s (“Defendant” or “Doe”) motion for summary judgment dismissing Plaintiff’s libel claim, and in support of Plaintiff’s motion for summary judgment dismissing Defendant’s counterclaim for breach of fiduciary duty, together with such other and further relief as this Court deems just and proper.

3. The purpose of this declaration is to submit exhibits relevant to the Court’s determination of the instant motion and counter-motion.

4. Exhibit 1 hereto is a true and accurate copy of relevant portions of the transcript of the July 30, 2019 deposition of Dr. Michael L. Jenike.

5. Exhibit 2 hereto is a true and accurate copy of relevant portions of the transcript of the May 15, 2019 deposition of Defendant.

6. Exhibit 3 hereto is a true and accurate copy of relevant portions of the transcript of the June 14, 2019 deposition of Dovi Meyer.

7. Exhibit 4 hereto is a true and accurate copy of relevant portions of the transcript of the May 6, 2019 deposition of Mark Schorr.

8. Exhibit 5 hereto is a true and accurate copy of relevant portions of the transcript of the February 11, 2020 deposition of James Doe.

9. Exhibit 6 hereto is a true and accurate copy of relevant portions of the transcript of the July 31, 2019 deposition of Dr. Robin A. Lippert.

10. Exhibit 7 hereto is a true and accurate copy of relevant portions of the transcript of the May 10, 2019 deposition of Katy Powell.

11. Exhibit 8 here to is a true and accurate copy of a March 16, 2017 email with a proposed patient contract as an attachment from Katy Powell to Dr. Conti and Mark Schorr, bearing Bates Nos. PC001207-001209, and previously marked as Defendant's Exhibit 1006.

12. Exhibit 9 hereto is a true and accurate copy of relevant portions of the transcript of the May 8, 2019 deposition of Sonali Patel.

13. Exhibit 10 hereto is a true and accurate copy of text messages, bearing Bates Nos. PC1327-1329, and previously marked as Defendant's Exhibit 1059.

14. Exhibit 11 hereto is a true and accurate copy of a March 6, 2017 patient progress note, bearing Bates No. DEF0000416, and previously marked as Defendant's Exhibit 1047.

15. Exhibit 12 hereto is a true and accurate copy of an April 7, 2017 email chain, bearing Bates Nos. PC000239-000241, and previously marked as Plaintiff's Exhibit 6.

16. Exhibit 13 hereto is a true and accurate copy of relevant portions of the transcript of the May 9, 2019 deposition of Dr. N. Gregory Hamilton.

17. Exhibit 14 hereto is a true and accurate copy of relevant portions of the transcript of the May 8, 2019 deposition of Amber Blum.

18. Exhibit 15 hereto is a true and accurate copy of relevant portions of the transcript of the June 12, 2019 deposition of Plaintiff.

19. Exhibit 16 hereto is a true and accurate copy of relevant portions of the transcript of the May 10, 2019 deposition of Dr. Brooke Maylie.

20. Exhibit 17 hereto is a true and accurate copy of relevant portions of the transcript of the July 19, 2019 deposition of Alan Dershowitz, Esq.

21. Exhibit 18 hereto is a true and accurate copy of all documents produced by Mr. Dershowitz in this litigation, bearing Bates Nos. DERSH 0001-0009.

22. Exhibit 19 hereto is a true and accurate copy of the transcript of the October 28, 2019 deposition of Dr. Jenike.

23. Exhibit 20 hereto is a true and accurate copy of text messages, bearing Bates Nos. Jenike 00053-00054, previously marked as Plaintiff's Exhibit 59.

24. Exhibit 21 hereto is a true and accurate copy of text messages, bearing Bates No. DEF001462.

25. Exhibit 22 hereto is a true and accurate copy of the unredacted version of Exhibit N to the February 7, 2018 First Amended Anonymized Complaint (“FAC”), a November 9, 2017 email from Doe to Dr. Conti and others, bearing Bates No. DEF0000300.

26. Exhibit 23 hereto is a true and accurate copy of the unredacted version of Exhibit O to the FAC, a November 9, 2017 email from Doe to Dr. Conti and others, bearing Bates No. DEF0000302.

27. Exhibit 24 hereto is a true and accurate copy of a September 7, 2017 email from Doe to Dr. Conti and others, bearing Bates No. PC000213, and previously marked as Plaintiff’s Exhibit 43.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 22, 2021, in the State of New York, New York County.

/s/ Peter B. Schalk

PETER B. SCHALK